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Summary record of the 23rd meeting
Held at Headquarters, New York, on Monday, 21 October 2002, at 10 a.m.

Chairman: Mr. Morikawa (Vice-Chairman) ..... (Japan)

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02-65211 (E)

In the absence of the Chairman, Mr. Morikawa (Japan), Vice-Chairman, took the Chair.

The meeting was called to order at 10.15 a.m.

Agenda item 102: Advancement of women (*continued*) (A/C.3/57/L.18)

1. **Ms. van Glaanen Weygel** (Suriname) introduced draft resolution A/C.3/57/L.18, entitled "Situation of older women in society". As the world population aged, older women outnumbered older men all over the world; their situation must therefore be a priority. The draft resolution stressed the need for recognition of the differential impact of ageing on men and women in order to integrate a gender perspective into all policies, programmes and legislation.

Agenda item 106: Programme of activities of the International Decade of the World's Indigenous People (*continued*) (A/57/296, A/57/395 and A/C.3/57/L.7)

2. **Ms. Viotti** (Brazil) said that the establishment of the Permanent Forum on Indigenous Issues had given that important topic its rightful place on the international agenda. Given the importance of its work and the wide scope of its mandate, it was essential to ensure that the Forum was supported by a firm and predictable institutional structure.

3. Her delegation was actively involved in the drafting of both an inter-American declaration and the proposed United Nations declaration on the rights of indigenous peoples. The latter declaration, which must be universally acceptable and politically realistic, would provide the Permanent Forum with a solid framework for the promotion and protection of indigenous rights.

4. Turning to the situation of indigenous peoples in Brazil, she said that the Brazilian Constitution recognized their social organization, customs, languages, beliefs and traditions and granted them the original rights to the land they traditionally occupied, which amounted to more than 11 per cent of the national territory. The sustainable development of communities living next to indigenous lands was essential to prevent invasions of demarcated indigenous areas. Brazil's indigenous population was growing faster than the national average, due not only to higher birth rates but also to higher life expectancy. The evolving discussion on indigenous rights at the international level was a powerful tool for reinforcing commitments at home, and her delegation therefore welcomed the inclusion of indigenous issues in the Plan of Action of the World Summit on Sustainable Development and the Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination , Xenophobia and Related Intolerance.

5. Lastly, the International Decade of the World's Indigenous People must be more than a symbolic gesture, it must contribute to a new era of sustainable development and full respect for indigenous rights.

6. **Ms. Taracena Secaira** (Guatemala) said that the creation of the Permanent Forum on Indigenous Issues was only a beginning; the establishment of a secretariat would be essential to enable the Forum to fulfil its mandate.

7. The issue of indigenous peoples was of fundamental importance for Guatemala, where 42.8 per cent of the population identified themselves as indigenous. Historically, the indigenous population, which was divided into three peoples, the Maya, made up of 21 ethnic groups, the Garifuna and the Xinca, had been severely disadvantaged. A recently adopted social development and population policy set strategic goals for improving the lives of indigenous population, but the Government's political will to achieve such goals was often hampered by lack of resources. The policy was intended to meet the challenge of helping integrate the population so that all citizens shared equally in the benefits of social development, through the implementation of a comprehensive population policy that recognized that poverty and extreme poverty were more deeply entrenched among the indigenous population. Another major challenge was cultural and linguistic diversity and the need for the education system to recognize and respect that diversity and help overcome prejudice and discrimination.

8. The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people had visited Guatemala in 2002 and had reported on the adoption of special legislation in Guatemala to protect indigenous rights. The creation of the Office for the Defence of Indigenous Women's Rights was also a major advance.

9. One persistent problem in Guatemala was that of land use and ownership, not only because land was essential for the predominantly indigenous rural population, but also because land held a special place

in the world view of indigenous peoples. Ensuring more rational land use was one of the priorities of the Peace Agreements.

10. **Mr. Leslie** (Belize), speaking on behalf of the States member of the Caribbean Community (CARICOM), welcomed the role played by the Office of the High Commissioner for Human Rights in promoting inter-agency cooperation on indigenous issues, as described in the report of the Secretary-General on the implementation of the programme of activities of the International Decade of the World's Indigenous People (A/57/395). He thanked those States that had contributed to the United Nations Voluntary Fund for Indigenous Populations and urged support for General Assembly resolution 56/140, under which it had been decided that the Fund should also be used to help representatives of indigenous communities and organizations attend sessions of the Permanent Forum on Indigenous Issues as observers.

11. While the quality of life of indigenous peoples had improved, vigilance was required to counter the new difficulties they faced. The CARICOM countries would continue to pay keen attention to the work being undertaken on a draft declaration on the rights of indigenous peoples, which must include the right to development and to participate in development on a basis of equality, non-discrimination and respect for diversity.

12. CARICOM countries welcomed the establishment of the Permanent Forum on Indigenous Issues, which would provide critical advice to the Economic and Social Council. In particular, they noted with satisfaction the Forum's role as an equal participant in deliberations within the United Nations and hoped that its work would lead to greater participation and benefits for indigenous people. They supported the establishment within existing resources, of a support secretariat for the Forum, which would benefit from the expertise of an independent special adviser with long-standing experience of indigenous issues.

13. The CARICOM countries commended the Office of the High Commissioner for Human Rights for its efforts in the Indigenous Fellowship Programme, which gave indigenous individuals the opportunity to gain experience in human rights and to serve as resource persons in their communities. The human and institutional capacities of indigenous people must be strengthened so that they could participate actively in decision-making.

14. The CARICOM countries were keen to play an important role in indigenous development. Indigenous peoples' understanding of the harmony between human lives and the environment was just a small part of their contribution towards sustainable development. The CARICOM countries remained committed to ensuring the advancement of their indigenous peoples, with a special focus on expanding access to education and healthcare for indigenous children.

15. In 2000, his Government had signed an agreement with the Maya peoples of southern Belize recognizing their right to the land and resources of that area, based on long-standing use and occupancy, and creating a partnership to co-manage the natural resources of protected areas. Under the national poverty-eradication strategy being implemented in consultation with Maya community leaders, the Government had built schools, provided access to technology and supported environmental protection and development programmes that respected Maya cultural values. Consultations with indigenous communities were also under way on the implementation of a regional development plan for southern Belize, with funding from the Inter-American Development Bank. Such efforts were often hindered by natural disasters, however, which could destroy years of work in a matter of hours. In 2001, a hurricane had left thousands of indigenous people homeless.

16. In some CARICOM countries, the traditional migration patterns of small tribes dispersed over large remote areas challenged government efforts to fulfil their obligations to their indigenous peoples.

17. In Guyana, through the collaborative efforts of the Government, the United Nations Development Programme (UNDP) and the United Nations Children's Fund (UNICEF) increased emphasis had been placed on poverty alleviation, with a special focus on healthcare, education, food and nutrition and community ownership of programmes.

18. The commitment of the CARICOM countries to integrating indigenous peoples in their development agenda was unquestionable and included indigenous people's participation in decision-making to ensure that their customs were taken into consideration in the sustainable development of those countries' natural resources. They were aware of the contributions and

sacrifices that indigenous peoples had made to national development and remained committed to protecting and improving their quality of life.

19. **Mr. Zhao** Xing (China) said that the establishment of the Permanent Forum on Indigenous Issues signified that Governments and indigenous peoples had begun to establish a true partnership within the framework of the United Nations. The drafting of a declaration on the rights of indigenous peoples was another important task to be completed during the International Decade of the World's Indigenous People. His delegation believed that the key to a breakthrough in drafting the declaration lay in finding a balance between supporting the legitimate demands of indigenous peoples and safeguarding the overall interests of the countries where they lived. It hoped that both sides would show political wisdom and flexibility so as to fulfil their commitment to promoting and protecting the rights of indigenous people through action.

20. Prior to the establishment of the Forum, the Working Group on Indigenous Populations of the Subcommission on the Promotion and Protection of Human Rights had done a great deal of work in that area and had in fact originated the idea of drafting the declaration and establishing the Forum. His delegation, like many others, supported the continuation of the Working Group, which could play a unique role as a think-tank on indigenous rights.

21. The evaluations of existing mechanisms dealing with indigenous issues requested under Economic and Social Council resolution 2000/22 and decision 2001/316 were intended to strengthen coordination among those mechanisms and establish clear-cut divisions of labour. His delegation believed that the Special Rapporteur should focus on collecting the latest information on indigenous people throughout the world, the Working Group should emphasize thematic research and the main function of the Forum should be to strengthen mutual trust and understanding between Governments and indigenous people through dialogue.

22. **Mr. Chuquihuara** (Peru) said that multiculturalism was one of the most important features of Peruvian society. Indigenous peoples had long played a fundamental role in Peru and the Government was doing its utmost to promote equal opportunity for them.

23. At the international level, his delegation had been active in the Working Group on a draft declaration on the rights of indigenous peoples. It welcomed the establishment of the Permanent Forum, but was concerned that sufficient resources should be allocated from the regular budget to support its future work. At the regional level, efforts were being made within the Organization of American States and the Andean Community to draft instruments on indigenous rights and to develop policies and strategies that recognized ethnic pluralism and promoted the full participation of indigenous peoples and ethnic minorities. His delegation also appreciated the activities of the Voluntary Fund for Indigenous Populations in supporting sustainable development projects, since international assistance was essential for overcoming the inequalities suffered by the region's indigenous peoples.

24. At the national level, a National Commission of Andean and Amazonian Peoples had been set up, headed by the First Lady and bringing together Government representatives, indigenous groups and scholars, to ensure the recognition and application by Peruvian society of the collective and individual rights of indigenous peoples, strengthen their organizations and help them to become agents of their own sustainable development. The Government and society were committed to an inclusive development model that would integrate indigenous peoples while preserving their culture and traditional communities.

25. **Mr. Boichenko** (Russian Federation) said that the International Decade had evidently helped to raise the profile of indigenous issues. Much had been achieved within the framework of the United Nations, and indigenous representatives had participated in the drafting of a declaration on the rights of indigenous peoples on an equal footing with Government representatives. Their contribution to the success of the first session of the Permanent Forum was particularly significant. His delegation welcomed the fact that increasing numbers of indigenous representatives were participating in the work of the United Nations thanks to the United Nations Voluntary Fund for Indigenous Populations. All parts of the United Nations system were, to varying degrees, involved in advancing the aims of the International Decade, most importantly with the cooperation of indigenous peoples themselves.

26. The acute problems confronting indigenous people, including issues touching on their very

survival, could not be solved at the international level alone. Without concerted action at the national level, the goals of the International Decade would not be attained.

27. In recent years, his Government had given priority to strengthening the laws regulating relations between the State and indigenous peoples in a number of areas. Effective mechanisms were required to ensure their implementation at the local and district levels, however. His Government sought to support indigenous peoples by creating conditions for their economic and social development. A State programme in northern Russia focused on housing, health, education and reindeer husbandry. Special attention was also being accorded to indigenous children, particularly to their social and professional integration in society. The overall aim was to shift gradually from direct State support to economic self-sufficiency. A further challenge was to develop a legal mechanism for regulating land use issues and for ensuring the sustainable development of indigenous peoples. Recognizing that the problems affecting its indigenous peoples were still far from being solved, his Government was giving priority to indigenous and minority issues and planned to conduct an assessment of national follow-up to the goals of the International Decade in early 2003.

28. **Mr. Tomoshige** (Japan), welcoming the success of the first session of the Permanent Forum on Indigenous Issues, said that cooperation and coordination among States, international organizations and indigenous peoples were required if the Forum was to remain a success. His Government, which had contributed US$ 25,000 to the United Nations Trust Fund for the International Decade of the World's Indigenous People in 2001, hoped that the Forum would discuss comprehensively the entire range of issues affecting indigenous people. Although significant progress had been achieved during the International Decade, much remained to be done. His delegation understood the need to ensure that the Forum functioned effectively and it looked forward to considering the Secretary-General's proposal concerning the establishment of a secretariat unit. However, it also wished to stress the importance of avoiding duplication and welcomed the forthcoming review of all existing mechanisms within the United Nations concerning indigenous issues.

29. **Ms. van Glaanen Weygel** (Suriname) said that Suriname had one of the most ethnically diverse populations in the world, which included various indigenous Amerindian tribes and Maroons. The Constitution prohibited all forms of discrimination, while the Government recognized the rights of indigenous people, respected their habitat and had a positive relationship with them.

30. With regard to land rights, the Government was working on a solution that would be mutually beneficial for all parties by holding national consultations and establishing a committee to draft the necessary legislation. Indigenous people in Suriname occupied leading positions in nature conservation and research activities and their traditional knowledge was being used to further sustainable development. Various sustainable development projects in indigenous areas were receiving support from international environmental organizations.

31. A protocol signed between the Government and the indigenous people of Suriname in June 2000 acknowledged the collective rights of indigenous people to use the areas allocated to them, based on the principle of natural borders, and provided for a special development fund to assist them. The Government had also committed itself to eradicating poverty and developing infrastructure in indigenous areas, including in the areas of education, healthcare, drinking water and electricity supply, transportation and telecommunications.

32. **Mr. Choi** (Australia), expressing his delegation's support for efforts to protect and promote the rights of indigenous people, said that the International Decade was an important means to that end. By allowing indigenous voices to be heard, the Permanent Forum would play a valuable role in coordinating United Nations activity on indigenous issues and ensuring that those issues were integrated into the Organization's overall agenda. Member States should ensure that the Forum was able to function effectively and should support the establishment of a secretariat to that end, to be operational by the Forum's next session in May 2003.

33. His delegation also recognized the importance of drafting a declaration on the rights of indigenous peoples and urged all parties to engage constructively in that process, with a view to developing an effective instrument by the end of the International Decade.

34. While strongly supporting the Decade's activities, his delegation maintained its position that all United Nations mechanisms must be efficient and effective. It remained concerned at the clear overlap among the mechanisms dealing with indigenous issues and felt that, at a time of budgetary constraints, they needed to be streamlined. It therefore supported the review mandated by the Economic and Social Council, which must be conducted expeditiously by an impartial body.

35. His Government's approach to indigenous issues at the international level was matched by its commitment at the national level. It acknowledged that the Aboriginal and Torres Strait Islander peoples were still the most disadvantaged group in Australian society and was determined to rectify the problem. It was aiming for a future in which indigenous Australians shared equitably in social and economic opportunities and was committed to addressing their specific health, housing, employment and education needs. National spending on indigenous issues would rise to a record US$ 2.5 billion in the next biennium, reflecting the Government's commitment to addressing the underlying causes of indigenous disadvantage, based on a partnership with indigenous people and on the principle that they should have greater opportunities for exercising meaningful control over their affairs and an effective voice in decision-making on matters directly affecting them. The Government was determined to achieve practical reconciliation between indigenous and non-indigenous Australians in what was a culturally diverse and tolerant society founded upon mutual respect, compassion and a commitment to human rights for all.

36. **Ms. Pulido** (Venezuela) said that Venezuela's cultural diversity and the contribution of its indigenous peoples to shaping the national identity and basic social institutions were recognized by law and in the Constitution, Title II of which recognized the existence of Venezuela's indigenous peoples, their right to use their own languages and maintain their own forms of organization and to use the natural resources of their traditional lands in order to preserve their way of life and culture. That represented a profound change in the country's political and legal thinking. Municipal legislation was also pending under which local governments would have to take into account the traditional organization of local indigenous groups and allow them to apply their internal customary law.

37. Her delegation welcomed the establishment of the Permanent Forum and had participated actively in its first session. It hoped that a secretariat for the Forum would be created within the Department of Economic and Social Affairs. It reiterated its commitment to the drafting of a declaration on the rights of indigenous peoples. Venezuela had joined the United Nations Voluntary Fund for Indigenous Populations in May 2002 in order to provide opportunities for the development of projects of interest to its indigenous communities, and has recently ratified International Labour Organization (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples.

38. **Mr. Rao** (World Intellectual Property Organization (WIPO)) said that the International Decade was of special interest to WIPO in the context of the protection and promotion of the traditional knowledge, genetic resources and cultural expressions of indigenous peoples as forms of their intellectual property. In a globalized, knowledge-based economy and amidst concerns for the preservation and promotion of cultural diversity, traditional knowledge, innovations and creativity had assumed increasing commercial, cultural and social value.

39. WIPO had been working in the area of traditional knowledge, initially limited to "expressions of folklore", for over two decades. In 1998 its work had expanded to include property rights relating to genetic resources and traditional knowledge, culminating in the establishment, in September 2000, of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. In cooperation with the Secretariat of the Convention on Biological Diversity, the Intergovernmental Committee was in the process of conducting an examination of intellectual property clauses in existing contractual agreements on access to genetic resources and associated benefit-sharing, with the aim of establishing a public electronic database on such contracts. It had also been considering how best to integrate existing public-domain traditional knowledge documentation within the existing intellectual property system and assessing the role that the existing system might play in the protection of traditional knowledge, as well as the possibility of developing a new system. Such work had benefited from the active participation of indigenous representatives.

The meeting rose at 11.40 a.m.

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Summary record of the 24th meeting
Held at Headquarters, New York, on Wednesday, 23 October 2002, at 10 a.m.

Chairman: Mr. Wenaweser ..... (Liechtenstein)

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Agenda item 106: Programme of activities of the International Decade of the World's Indigenous People (*continued*)

Agenda item 107: Elimination of racism and racial discrimination*

(a) Elimination of racism and racial discrimination

(b) Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

Agenda item 108: Right of peoples to self-determination*

* Items which the Committee has decided to consider together.

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02-65785 (E)

The meeting was called to order at 10.10 a.m.

Agenda item 106: Programme of activities of the International Decade of the World's Indigenous People (*continued*) (A/57/296 and 395; A/C.3/57/L.7)

1. **Mr. Naidu** (Fiji), speaking on behalf of the member States of the Pacific Islands Forum which had offices in New York (Australia, the Federated States of Micronesia, Fiji, the Marshall Islands, Nauru, New Zealand, Papua New Guinea, Samoa, Solomon Islands, Togo and Tuvalu) welcomed the historic inaugural meeting of the Permanent Forum on Indigenous Issues held in May 2002. The support for that meeting had lent weight to increasing calls for a permanent secretariat to service the Forum. The General Assembly should continue to demonstrate the commitment of the United Nations to the goals of the International Decade of the World's Indigenous People, one of which was the launch of that new body. In order for the Forum to fulfil its mandate, it needed a new secretariat funded from the United Nations regular budget.

2. Future meetings of the Forum would focus on health, indigenous rights, education and culture, economic and social development, environment, and children and youth. He hoped that the Forum and other United Nations mechanisms dealing with indigenous issues could deliver real benefits to indigenous peoples and meet their concerns. The renewed energy evident in the reports gave hope that the elaboration of a draft declaration on the rights of indigenous peoples could be achieved by 2004.

3. The cross-cutting nature of indigenous issues had caused them to feature prominently in recent global conferences. The countries of the Pacific Islands Forum welcomed that timely trend and stood ready to support any initiatives for the holistic realization of the agreed global targets.

4. **Ms. Fleming** (The World Bank) said that, in its follow-up to international development goals, the World Bank was seeking to deepen its understanding of the contribution of indigenous cultures to the socio-economic framework which it was assisting countries to achieve. The Bank was revising its policy on indigenous peoples to ensure that projects were tailored to their specific needs and did not impact negatively on indigenous communities. Extensive consultations had been conducted throughout the year, involving some 1,200 indigenous representatives and other partners. At a round-table discussion held by the Bank the previous week, indigenous leaders from various regions and representatives of non-governmental organizations had exchanged ideas on creating a mechanism for dialogue on indigenous issues. The Bank had agreed to continue the dialogue on key development policies aimed at incorporating indigenous peoples' viewpoints in its programmes. Participants had also highlighted the importance of the establishment of the Permanent Forum on Indigenous Issues and discussed how the Bank might strengthen its cooperation with the Forum, with a view to incorporating indigenous perspectives in sustainable development strategies.

Agenda item 107: Elimination of racism and racial discrimination (A/57/3)

(a) Elimination of racism and racial discrimination (A/57/18, A/57/83-E/2002/72, A/57/204, 333 and 334)

(b) Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (A/57/443 and 444)

Agenda item 108: Right of peoples to self-determination (A/57/178 and 312)

5. **Mr. Ndiaye** (Director, Office of the High Commissioner for Human Rights) introduced several reports of the Secretary-General prepared under the two agenda items. Under item 107 he noted that, since the submission of the report on the status of the International Convention on the Elimination of All Forms of Racial Discrimination (A/57/334), three more States had ratified or acceded to the Convention: Equatorial Guinea, Honduras and Turkey. To date, 41 States had made the declaration under article 14 of the Convention recognizing the competence of the Committee to receive and consider communications from individuals. The Committee had held its regular biannual sessions in 2001 and 2002, mostly devoted to the consideration of 39 State party reports. During those four sessions it had also reviewed the implementation of the Convention in eight States parties whose periodic reports were overdue by at least five years.

6. A new general recommendation had been adopted by the Committee at its sixtieth session, in March 2002, concerning the follow-up to the Durban Conference. At the same session, the Committee had

adopted a statement on racial discrimination and measures to combat terrorism in which it had declared its intention to monitor the potentially discriminatory effects of legislation and practices in the framework of the fight against terrorism. At its sixty-first session the Committee had held a thematic discussion on descent-based discrimination and had adopted a general recommendation calling upon States parties to adopt measures aimed at eradicating such discrimination and measures against segregation affecting members of descent-based communities.

7. Turning to the report on the financial situation of the Committee on the Elimination of Racial Discrimination (A/57/333), he recalled that the amendment to article 8 of the Convention adopted by the States parties in January 1992 and endorsed by the General Assembly would take effect when it had been accepted by a two-thirds majority of the States parties. Currently, only 36 States parties had approved that modification. He also noted that a number of States parties were still in arrears from the non-payment of previous assessments for the period prior to 1994.

8. Under agenda item 107 (b), he drew attention to the report of the United Nations High Commissioner for Human Rights on the comprehensive implementation of and follow-up to the World Conference against racism (A/57/443). The report took into account information and views provided by States, United Nations bodies and specialized agencies, human rights treaty bodies, special procedures, and other mechanisms of the Commission on Human Rights, as well as international, regional and non-governmental organizations and human rights institutions.

9. Many States reported that they were reviewing or planning to review national legislation or constitutional provisions to better ensure equality and non-discrimination. Taking into account the victims-oriented approach of the World Conference, a number of States made reference to particular groups such as people of African descent, indigenous peoples and the Roma as a focus of their efforts to combat racial discrimination. A significant number of States also indicated that they were taking steps to develop national plans of action to combat racism, in consultation with civil society, national human rights institutions and other actors.

10. He drew attention to section III of the report, which described the activities of the Anti-Discrimination Unit established by the High Commissioner. The Unit had organized two regional expert seminars in 2002 and, later in the year, would be issuing a publication on the gender dimensions of racial discrimination. The Unit had also begun work on compiling best practices to combat racism, and planned to issue a user-friendly publication on implementation of the Durban final documents at the end of the year.

11. An important area of follow-up to the World Conference had been mainstreaming its outcome throughout the United Nations system. The United Nations family had embraced that challenge with zeal. Specialized agencies and United Nations bodies had participated in the expert seminars and were also working closely with the Office of the High Commissioner in a number of other areas to fight racism. The report also made reference to the work of national human rights institutions, non-governmental organizations and youth groups in implementing the final documents of the Conference. The secretariat had encouraged the involvement of those groups in its follow-up activities to the Conference and, in March 2002, had organized a special youth panel in Geneva to commemorate the International Day for the Elimination of Racial Discrimination. The Office of the High Commissioner had provided financial support for a number of small-scale youth activities to combat racism, particularly in developing countries.

12. In his report on implementation of the Programme of Action for the Third Decade and follow-up to the World Conference against racism (A/57/83-E/2002/72), the Secretary-General had responded to the General Assembly's request in its resolution 55/84 for specific information about the activities of United Nations bodies and specialized agencies to combat racism and racial discrimination. The report also included information on follow-up to the World Conference. The Office of the High Commissioner and the United Nations Educational, Scientific and Cultural Organization were planning to hold a joint seminar on education in February 2003 in Paris, in accordance with paragraph 7 of the Programme of Action of the Third Decade.

13. Turning to agenda item 108, he noted that the Secretary-General's report on the right of peoples to self-determination (A/57/312) contained a summary of the replies of Member States to General Assembly resolution 56/141, as well as an account of the consideration of the issue by the Commission on Human Rights.

14. **Mr. Diène** (Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance), introducing the report (A/57/204) prepared by his predecessor, Mr. Maurice Glèlè-Ahanhanzo, said that he would endeavour to carry out his mandate with the same rigorous, ethical and professional approach as Mr. Glèlè-Ahanhanzo. It was a difficult mandate, and could be performed only with full cooperation by all concerned. He intended to carry it out in the letter and spirit of the Durban Declaration and Programme of Action, with a dual approach giving equal emphasis to implementing all existing international instruments against racism, racial discrimination and xenophobia and to tackling the causes, mechanisms and motives of those phenomena, a task which had been insufficiently emphasized in the past. However important the international instruments were, they did not suffice to deal with underlying values, behaviour and attitudes. It was equally important to promote dialogue among cultures and civilizations. One of the most important issues to be considered was how "the other" was perceived in various cultures and how that image was diffused by educational systems. He called upon all States to permit him to visit them and to help him form an objective opinion as to how the questions of racism and xenophobia were dealt with in their territory.

15. The Durban Conference had for the first time promoted a comprehensive approach to racism and an appropriate historical perspective. He intended to promote the Durban spirit of consensus and ensure that there was no North-South divide in the fight against racism. There must be improved cooperation between United Nations bodies and civil society, and full and vigilant implementation of the Durban outcome documents. Particular attention should be given to the worrying issue of racism in sport and to the situation faced by Arabs and Muslims since the events of 11 September 2001.

16. **Ms. Kohonen** (Office of the High Commissioner for Human Rights), speaking for Mr. Bernales-Ballesteros, Special Rapporteur on the use of mercenaries, introduced the Special Rapporteur's report (A/57/178). In accordance with General Assembly resolution 56/232 he had taken into account in the discharge of his mandate the fact that mercenary activities continued to occur in many parts of the world and were taking on new forms. As a result, there was a growing awareness of the serious problem that the presence of mercenaries represented for peace, human rights and self-determination.

17. A common position of explicit condemnation of mercenary activities was required. In view of the many armed conflicts, terrorist attacks, illicit trafficking and assassinations involving mercenary groups, there was no room for ambiguous policies, covert operations using mercenaries, legal speculation on whether mercenary activities constituted an offence, or excuses relating to the cost-benefits to private security or military companies employing mercenaries. Zero tolerance was the only way to ensure their elimination. During 2003, the final year of his mandate, he planned to make a more thorough examination of the said issues so that he could propose to the General Assembly general criteria for policies and recommendations that would be effective in eliminating mercenary activities. A visit to the United States scheduled for February 2003 would allow him to collect extensive information and provide him with further elements for elaborating substantive proposals.

18. Several important events had had an impact on his mandate over the past months. In Angola, a ceasefire agreement had been signed in April 2002. The presence of mercenaries in that country had been one of the most important issues during his mandate. Angola had been the focus of very diverse mercenary activities, such as those of the private military-security companies, which had converted the armed conflict into a way of doing unlawful business by exacting the country's natural resources. Now that the conflict had terminated, the international community should provide support so that, in addition to peace, Angola could enjoy its enormous resources and attain the development to which it legitimately aspired.

19. In May 2002, he visited El Salvador and Panama, during which time he had received information on the measures both Governments were adopting to combat mercenary activities, and had discussed defects in international legislation on mercenaries, the legal definition of mercenaries, and the relationship between mercenary and terrorist activities. In El Salvador, he had observed shortcomings in the investigation into the one-time presence there of Luis Posada Carriles and his possible support networks for illicit activities against the Cuban Government. In a prison in Panama, he had met with several persons accused of planning to assassinate the Cuban head of State during his visit to Panama City to take part in the Tenth Ibero-American

Summit. They were also accused of having recruited, financed, trained and used mercenaries to carry out terrorist attacks in Cuba in 1997, possibly in collaboration with anti-Castro organizations. Following his visit to the United States he expected to be able to submit a final report on that question to the General Assembly at its fifty-eighth session.

20. The second meeting of experts on the question of traditional and new forms of mercenary activities had taken place in Geneva in May 2002 and its report would be submitted to the Commission on Human Rights. Although the meeting had failed to achieve consensus on the definition of mercenaries and on a potential international convention, alternative approaches had been discussed that could prove useful for the definition of what constituted a mercenary.

21. Lastly, Member States which had not yet done so should incorporate into their criminal law provisions that classified mercenary acts as an offence and the fact of being a mercenary as an aggravating circumstance in the perpetration of other criminal activities, particularly terrorist acts. States should also expressly prohibit the use of their territory for mercenary activities. The International Convention against the Recruitment, Use, Financing and Training of Mercenaries, which had entered into force on 20 October 2001, had already been ratified or acceded to by 24 States parties. He hoped many more States would become party to it.

22. **Ms. Eskjaer** (Denmark), speaking on behalf of the European Union, said that it agreed that the Durban Programme of Action should be the basis for all future actions to combat racism, racial discrimination and xenophobia. She enquired about the plans of the Special Rapporteur for follow-up to the Programme of Action, his objectives for his mandate, and how he viewed his cooperation with the Anti-Discrimination Unit of the Office of the High Commissioner for Human Rights.

23. **Mr. Diène** (Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance) said that in his view, the Durban Programme of Action should be made known much more widely, as a misleading image of the Durban Conference had been portrayed in the media. He saw the Programme of Action as an educational tool which contained the ethical basis on which to conduct the fight against racial discrimination. It was important for that document to reach the general public, not just State institutions and non-governmental organizations, as the actions proposed therein could help citizens of all countries.

24. All the mechanisms for follow-up to the Durban Conference must cooperate closely with each other and with the Special Rapporteur, in order to build an institutional critical mass. Since the events of 11 September 2001, there had been a marked backlash against minorities and a return to a mentality of discrimination that must be counteracted through legal and political action. Education and communication were important in rooting out that culture of discrimination. He planned to link combating racism with the dialogue among cultures, races and religions and enter into discussion on the values that motivated the actions of various groups. He intended to work as closely as possible with the Anti-Discrimination Unit.

25. **Mr. Amorós Núñez** (Cuba) said that racist propaganda disseminated over the Internet was a growing problem, and enquired about any measures planned to combat it.

26. **Mr. Diène** (Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance) replied that the appearance of such material on the Internet was an indication that racial discrimination and xenophobia remained an open question. Many countries found a conflict between their constitutional guarantees of freedom of expression and the ethical values which deemed such material abhorrent. It was important to work closely with Governments and civil society to involve the information media in the efforts to curb that activity. Those who controlled the information media could be the most influential agents for change.

27. **Ms. Eskjær** (Denmark), speaking on behalf of the European Union, the associated countries Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey, as well as Iceland and Norway, said that racial discrimination was incompatible with the principles on which the European Union was founded. Efforts must be strengthened at all levels to combat a phenomenon which prevented the full enjoyment of human rights and threatened democratic values.

28. The legal framework was essential to the fight against racism, with the Convention on the Elimination of All Forms of Racial Discrimination serving as the

core international instrument and the Committee on the Elimination of Racial Discrimination as an important bridge towards national implementation. Effective legislation and administrative measures that ensured non-discrimination and respect for human rights were crucial in that regard.

29. Prevention must also be enhanced by improving education, training and awareness-raising activities, especially for young people. In that connection, it should be made clear that any doctrine of racial superiority was scientifically false, morally condemnable, socially unjust and dangerous. Politicians had a special responsibility to prevent the spread of racist ideologies. In addition, it was necessary to combat the inappropriate uses of new technologies for racist ends. The European Union also attached great importance to the fight against anti-Semitism.

30. The eradication of racism, racial discrimination, xenophobia and related intolerance required the involvement of all members of civil society, including the media and private sector. The European Union, for its part, had focused on integrating the fight against racism in all its policies, especially its employment policy, but also its common foreign and security policy, particularly with respect to the enlargement process, assistance to development and matters of police and judicial cooperation.

31. The right of peoples to self-determination remained relevant and deserved further attention at the international level. Democracy, the rule of law and respect for civil and political rights were critical in that regard.

32. **Mr. Ndiaye** (Senegal) said that the condemnation of slavery and the slave trade as a crime against humanity and the emphasis placed on the situation of Africans and their descendants at the Durban Conference had been welcome. However, racism and racial discrimination were not a question of North against South; discrimination and xenophobia could be found in the countries of the South and in Africa itself, feeding and aggravating its conflict. Those evils should be denounced with the same energy and determination in Africa as they would be anywhere in the world. The fight against racism was above all the fight for democracy, respect for human rights and the cultural and religious diversity in society. Education programmes to instil the values of respect and tolerance in children and youth were extremely important, therefore.

33. Combating racism was a matter not just for Governments, but for civil society as well. It required adequate financing and strengthened cooperation at the regional and international levels. His delegation welcomed the establishment by the Commission on Human Rights of (a) an intergovernmental working group to make recommendations for the implementation of the Durban Declaration and Programme of Action and to prepare international standards to strengthen and update international instruments against racism; and (b) a working group of five independent experts on people of African descent. The establishment of the Anti-Discrimination Unit within the Office of the High Commissioner was also a welcome step, and his delegation urged the allocation of sufficient funds for its important mandate.

34. **Ms. Baardvik** (Norway) said that the Durban Declaration and Programme of Action had been the result of complex negotiations and encompassed many different and often divergent views, but that should not prevent its implementation. Coordinated international efforts to combat racism were vital, but the main battles must be fought at the national and local levels.

35. Norway had adopted legislation expressly aimed at prohibiting racial and ethnic discrimination, and was working to incorporate the provisions of the Convention on the Elimination of All Forms of Racial Discrimination into its domestic law. The primary aim was to provide comprehensive protection for individuals against unfair treatment based on ethnicity, with the broader aim of improving the conditions for ethnic minorities by ensuring equal rights for all. In addition, as part of the follow-up to the Durban Conference, her Government had revised its national plan of action against racism. Discrimination was often rooted in ignorance and misinformation, and thus the inclusion of anti-discrimination components in educational curricula was considered an important long-term measure in efforts to reduce discrimination. Racism could not be eliminated without serious and long-term efforts by national authorities.

36. **Mr. De Alba** (Mexico) said that Mexico was convinced that plurality, respect for minority groups and support for vulnerable groups was the essence of a sustainable democratic society, and the preservation of cultural diversity should be its principal goal. To that

end, national and international measures should be adopted, not only to remedy past harm, but also to combat the causes of racism and discrimination.

37. The building of a more just and democratic society depended to a great extent on the prevention and eradication of such evils. Consequently, Mexico considered that the implementation of the Durban Programme of Action should be granted the highest priority, and a seminar of Latin American and Caribbean experts had been held in Mexico City in July 2002 to exchange ideas to that end. They had recommended, inter alia, that States should draw up and implement national action plans; that the region's Governments should adopt public policies to combat racial discrimination; and that efforts should be increased with a view to the adoption of the draft United Nations declaration on the rights of indigenous people and ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

38. Combating discrimination was a priority goal of the current political changes in Mexico and the Government had implemented a series of policies, including adapting laws and strengthening organizations so as to protect vulnerable groups. The right not to be discriminated against had been incorporated into the Constitution, with protection should violations occur. The citizen's anti-discrimination committee had launched a public invitation for all affected groups to meet periodically to reveal the most severe and recurring causes of discrimination. The main goal of the effort was to translate the demands of the affected groups into a legal norm capable of protecting them, and a draft law to prevent and eliminate discrimination would be submitted to the Congress shortly.

39. In his statement to the General Assembly at its fifty-sixth session, the President of Mexico had indicated that it was not possible to achieve a more equitable world if the most vulnerable groups were excluded. The Government had therefore encouraged the establishment by the General Assembly (in resolution 56/168) of the Ad Hoc Committee to consider proposals for a comprehensive international convention to promote and protect the rights and dignity of persons with disabilities. His delegation welcomed the results of the first session of the Ad Hoc Committee.

40. **Mr. Roshdy** (Egypt) observed that, in accordance with the Universal Declaration of Human Rights, people were born free, with equal dignity and rights. Moreover, the Charter and the International Covenants on Human Rights stipulated that all peoples had the right of self-determination. Pursuant to that right, they could freely decide their political future and achieve comprehensive development.

41. The right of self-determination represented a fundamental condition for enjoying other rights. That right, however, was violated by the continuing Israeli occupation of the Palestinian territories. The Palestinian people were still suffering under a half-century-old tyrannical occupation, with Israel selectively applying certain international conventions that agreed with its selfish interests.

42. The suffering of the Palestinian people indicated clearly that the international community had not yet reached the level of civilization it had sought, and that its conscience should not be so clear with regard to the progress it had achieved while remaining quiet about the killings, deportations and dispossessions that were the daily lot of the Palestinian children, women and old people. The Israeli occupation authorities were still defying the Palestinian people and the will and the law of the international community.

43. The right of self-determination was synonymous with another right that international law had confirmed clearly and forcefully — the right to resist occupation when peaceful means for regaining freedom had failed. The right of self-determination was a natural right for all peoples, and as long as their lands remained occupied, resistance remained a right. His delegation affirmed once more the right of the Palestinian people to self-determination and to fight against occupation, just as the European peoples had resisted foreign occupation 60 years earlier.

44. The Palestinian people would reach their goals, however long it might take, and however difficult the road ahead might be. No matter how stubborn the Israelis would be, the resistance of the Palestinian people would be greater. There was no power that could stop the will of a people that had decided to manage its own affairs and to reclaim its legitimate rights.

45. **Mr. Mamdouhi** (Islamic Republic of Iran) said implementation of the Durban Declaration and Programme of Action required political will, as well as

adequate funding at the national, regional and international levels. Racial discrimination threatened the foundations of all societies and led to poverty, underdevelopment and marginalization. His delegation welcomed the efforts of the Office of the High Commissioner on Human Rights in its follow-up to the World Conference, including the establishment of an Anti-Discrimination Unit.

46. The Islamic Republic of Iran had been actively involved in the World Conference and the preparatory process; indeed, the country's commitment could be traced to its own cultural values and heritage. The Government remained determined to combat racism at both the national and international levels, including in the framework of cooperation with the Committee on the Elimination of Racial Discrimination.

47. **Mr. Fadl** (Sudan) said that his country shared the concern of the international community about racism and xenophobia, especially towards immigrants, refugees and ethnic minorities. His delegation, based on the belief of equal dignity among human beings, stressed the need to have advance warning of possible harm done by racism in the world. It was also necessary to strengthen international cultural and social cooperation in order to promote ethnic diversity, respect for the economic, cultural and political characteristics of countries, and the peaceful coexistence of different cultures and civilizations.

48. As a party to the International Convention on the Elimination of All Forms of Racial Discrimination, the Sudan had promulgated laws to prevent discrimination. It welcomed the Durban Declaration and Programme of Action, a fundamental document for effective cooperation to fight racism. The Declaration could not be implemented without national and international political will and the provision of the necessary financial means. That would include reinforcing the Anti-Discrimination Unit and the implementation of Commission on Human Rights resolution 2002/68.

49. His delegation noted the reference in paragraph 15 of the report of the Special Rapporteur on contemporary forms of racism (A/57/204) to discrimination against Muslims and people of Arab origin following the terrorist attacks of 11 September 2001, and called for the implementation of Commission on Human Rights resolution 2002/9, entitled "Combating defamation of religions". Given, furthermore, the racist and hate-mongering campaigns on the Internet, his delegation recommended the drafting of national and international laws in order to deter those responsible for such campaigns.

50. The Sudan agreed with the view of the African Union concerning self-determination, whereby such right applied solely to the people who lived under the yoke of imperialism or foreign occupation. With that view in mind, it affirmed the right of people to self-determination. However, that right should not be understood as including encouragement of the fragmentation of countries, interference in their internal affairs or violation of their sovereignty and territorial integrity. Such misinterpretations could jeopardize the stability and security of countries, intensify disputes, threaten international peace and security, and increase the social and economic suffering of peoples.

51. His delegation called upon the international community to be attentive to what was occurring in the occupied Palestinian territories, where the most egregious forms of tyranny were taking place under Israeli occupation. It called for the implementation of the relevant resolutions that would grant the Palestinian people their right to self-determination and to an independent State with Jerusalem as its capital.

52. His delegation welcomed the report of the Special Rapporteur on the use of mercenaries (A/57/178), and agreed that the lack of a clear legal definition of mercenaries had increased their illegal activities and had led them to carry out terrorist acts. The cooperation of the international community was needed to stop such activities. His delegation recommended the adoption of a clear definition of mercenaries and a new international instrument that would criminalize their activities, and those who encouraged them.

53. **Mr. Amorós Núñez** (Cuba) said that, at the World Conference against racism, the international community had chosen to emphasize the principles of universality, objectivity and non-selectivity in examining human-rights questions, since the enormous challenges identified at the Conference could only be tackled by cooperation.

54. The Conference had acknowledged that slavery and the slave trade had always been crimes against humanity, that such practices were among the main manifestations of racism and related intolerance, and that victims continued to suffer the consequences. It had also recognized that colonialism had led to racial

discrimination and had contributed to poverty, social exclusion and economic disparities, particularly in developing countries. Despite significant progress in making moral reparation to the victims of such crimes, important matters remained pending for the full restitution of their dignity and compensation for the harm they had suffered. Cuba called on the States concerned to reverse the consequences of such practices and comply with their moral obligations.

55. Racism, intolerance, racial discrimination and xenophobia were still present in different parts of the world, and often manifested themselves in new and more sophisticated ways, particularly in the industrialized world. The main goals of three decades of combating racism had not been achieved; racist violence continued to occur, particularly in Europe and North America, and theories that promoted the superiority of certain races and cultures proliferated and were becoming institutionalized.

56. Immigrants were now increasingly affected by discrimination and intolerance, as the Special Rapporteur on contemporary forms of racism had mentioned in his report (A/57/204). They had become scapegoats for the ills affecting developed societies; they suffered verbal and physical violence inflicted by members of fundamentalist ultra-right parties and xenophobic organizations. In some highly developed countries, moreover, certain categories of immigrants had been deprived of the basic services of health and education.

57. Acts of racism and intolerance had increased with the resurgence of xenophobic ideologies and the abuse of the Internet, and regulations ensuring responsible use of the Internet should be developed. Racism also persisted in penal systems, the administration of justice and law enforcement, thereby contributing to an over-representation of certain ethnic groups among prisoners. That situation was particularly critical in the United States, where almost three fifths of the prison population was Afro-American, although that group comprised only 13 per cent of the overall population, and where the average annual income of a white family was almost double that of an Afro-American family.

58. Concern was growing about the increase in discrimination against Muslims and Arabs since the terrorist attacks of 11 September 2001, and the initiatives recommended at the Durban Conference should be implemented in order to reverse that trend. It was essential to fulfil urgently all the Durban commitments. The United Nations agencies should be called on to disseminate the Durban Declaration and Programme of Action and to incorporate their provisions into their respective mandates.

59. **Mr. Youssef** (Libyan Arab Jamahiriya) said it was regrettable that the period following the Durban Conference had witnessed acts of discrimination against Muslims and Arabs, as their houses of worship, cultural centres and properties had been attacked in different parts of the world. Arabs and Muslims, as a result of laws enacted under the pretext of fighting terrorism, were subject to discriminatory measures based on racial profiling, names and places of birth.

60. His delegation condemned vehemently all such xenophobic attitudes. They were no longer confined to marginal or extreme-right political parties in Western countries, but had become part of their legislation. Such discrimination represented a grave violation of human rights, even a crime against humanity.

61. His delegation condemned policies that favoured one culture over others and the increasing use of modern communications technology to spread racial superiority and xenophobic ideas. It urged the adoption of all necessary measures to stop such practices. The Durban Declaration and Programme of Action aimed to save people from slavery, trafficking and imperialism, although the Declaration did not mention compensation. Victims should be compensated by those countries responsible for their plight. His delegation welcomed the establishment of the Anti-Discrimination Unit, and hoped that it would be provided with the necessary support.

62. Referring to the right of self-determination, he said that the United Nations was responsible for helping all peoples still living under occupation to exercise that right, especially the Palestinian people, who had the right to establish their own independent State in all the lands of Palestine.

63. One of the main reasons that prevented peoples from exercising their right of self-determination was the use of mercenaries. They were also used to destabilize Governments or to subvert regional peace and the sovereignty of independent States. Peace was still a dream for many peoples in Africa. They were surrounded by armed conflicts involving mercenaries, and lacked access to their natural resources. Greed over owning those resources was the real reason for

undermining legitimate Governments, for arming and financing rebellious factions and for fomenting internal struggles, incited by those who dominated the markets for precious metals and stones in Europe.

64. His delegation condemned the use of mercenaries, which was harming mostly Africa, and recommended that the same attention given to combating international terrorism should be given to fighting that phenomenon. It urged all countries which had not yet done so to become party to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries.

65. **Ms. Otiti** (Uganda) said that she categorically disagreed with the references to Uganda in the report of the Special Rapporteur on the use of mercenaries (A/57/178), which had neither basis in fact nor credible sources. If the Special Rapporteur had paid attention to her delegation's statements during the debate on the relevant agenda items at the fifty-sixth session, he would have been appraised of the correct facts concerning the situation in the country, which had suffered owing to mercenary activities in its western and northern parts. She was surprised that the Special Rapporteur should choose to misrepresent the situation to the Committee, while adopting inadequate definitions of "mercenary activities" and "self-determination". It was a further matter of concern that certain Special Rapporteurs should absent themselves from meetings involving dialogue with States, which was an important step in the consideration of their work and in the responsible fulfilment of their mandate.

The meeting rose at 12.30 p.m.